

**ASSEMBLY BILL**

**No. 751**

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**Introduced by Assembly Member Furutani**

February 17, 2011

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An act to amend Sections 1240, 1630, 42127.6, and 42131 of the Education Code, relating to education finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 751, as introduced, Furutani. Education finance.

(1) Existing law requires the county superintendent of schools to report to the Superintendent of Public Instruction on the financial condition of a county office of education or a school district if the county superintendent determines the county office of education or a school district may be unable to meet its financial obligations for the current or 2 subsequent fiscal years or if a county office of education or a school district has a qualified or negative certification. Existing law requires the Superintendent of Public Instruction to take at least one of certain actions, and all actions that are necessary, to ensure that a county office of education meets its financial obligations for the current and 2 subsequent fiscal years. Existing law requires the county superintendent to take similar actions with respect to school districts.

This bill would instead require a county superintendent of schools to report to the Superintendent of Public Instruction on the financial condition of the county office of education or a school district if the county superintendent determines the county office of education or a school district may be unable to meet its financial obligations for the current or the subsequent fiscal year, rather than for the current fiscal year and 2 subsequent fiscal years.

(2) Existing law requires the governing board of each school district to clarify, in writing, within 45 days after the close of the period being reported, whether the school district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year.

Existing law requires the county superintendent of schools to report to the Superintendent of Public Instruction whether the county office of education is able to meet its financial obligations for the current and 2 subsequent fiscal years. Pursuant to existing law, a negative certification is assigned to a county office of education or a school district that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year; a qualified certification is assigned to an office or district that may not meet its financial obligations for the current fiscal year or 2 subsequent fiscal years; and a positive certification to an office or district that will meet its financial obligations for the current fiscal year and 2 subsequent fiscal years.

This bill would change the standards for the certifications so that a negative certification is assigned to an office or district that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year; a qualified certification would be assigned to an office or district that may not meet its financial obligations for the current fiscal year or the subsequent fiscal year; and a positive certification to an office or district that will meet its financial obligations for the current fiscal year and the subsequent fiscal year.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1240 of the Education Code is amended
- 2 to read:
- 3 1240. The county superintendent of schools shall do all of the
- 4 following:
- 5 (a) Superintend the schools of his or her county.
- 6 (b) Maintain responsibility for the fiscal oversight of each school
- 7 district in his or her county pursuant to the authority granted by
- 8 this code.
- 9 (c) (1) Visit and examine each school in his or her county at
- 10 reasonable intervals to observe its operation and to learn of its

1 problems. He or she annually may present a report of the state of  
2 the schools in his or her county, and of his or her office, including,  
3 but not limited to, his or her observations while visiting the schools,  
4 to the board of education and the board of supervisors of his or  
5 her county.

6 (2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the  
7 extent that funds are appropriated for purposes of this paragraph,  
8 the county superintendent, or his or her designee, annually shall  
9 submit a report, at a regularly scheduled November board meeting,  
10 to the governing board of each school district under his or her  
11 jurisdiction, the county board of education of his or her county,  
12 and the board of supervisors of his or her county describing the  
13 state of the schools in the county or of his or her office that are  
14 ranked in deciles 1 to 3, inclusive, of the 2003 base Academic  
15 Performance Index (API), as defined in subdivision (b) of Section  
16 17592.70, and shall include, among other things, his or her  
17 observations while visiting the schools and his or her  
18 determinations for each school regarding the status of all of the  
19 circumstances listed in subparagraph (J) and teacher  
20 misassignments and teacher vacancies. As a condition for receipt  
21 of funds, the county superintendent, or his or her designee, shall  
22 use a standardized template to report the circumstances listed in  
23 subparagraph (J) and teacher misassignments and teacher  
24 vacancies, unless the current annual report being used by the county  
25 superintendent, or his or her designee, already includes those details  
26 for each school.

27 (B) Commencing with the 2007–08 fiscal year, to the extent  
28 that funds are appropriated for purposes of this paragraph, the  
29 county superintendent, or his or her designee, annually shall submit  
30 a report, at a regularly scheduled November board meeting, to the  
31 governing board of each school district under his or her jurisdiction,  
32 the county board of education of his or her county, and the board  
33 of supervisors of his or her county describing the state of the  
34 schools in the county or of his or her office that are ranked in  
35 deciles 1 to 3, inclusive, of the 2006 base API, pursuant to Section  
36 52056. As a condition for the receipt of funds, the annual report  
37 shall include the determinations for each school made by the county  
38 superintendent, or his or her designee, regarding the status of all  
39 of the circumstances listed in subparagraph (J) and teacher  
40 misassignments and teacher vacancies, and the county

1 superintendent, or his or her designee, shall use a standardized  
2 template to report the circumstances listed in subparagraph (J) and  
3 teacher misassignments and teacher vacancies, unless the current  
4 annual report being used by the county superintendent, or his or  
5 her designee, already includes those details with the same level of  
6 specificity that is otherwise required by this subdivision. For  
7 purposes of this section, schools ranked in deciles 1 to 3, inclusive,  
8 on the 2006 base API shall include schools determined by the  
9 department to meet either of the following:

10 (i) The school meets all of the following criteria:

11 (I) Does not have a valid base API score for 2006.

12 (II) Is operating in fiscal year 2007–08 and was operating in  
13 fiscal year 2006–07 during the Standardized Testing and Reporting  
14 (STAR) Program testing period.

15 (III) Has a valid base API score for 2005 that was ranked in  
16 deciles 1 to 3, inclusive, in that year.

17 (ii) The school has an estimated base API score for 2006 that  
18 would be in deciles 1 to 3, inclusive.

19 (C) The department shall estimate an API score for any school  
20 meeting the criteria of subclauses (I) and (II) of clause (i) of  
21 subparagraph (B) and not meeting the criteria of subclause (III)  
22 of clause (i) of subparagraph (B), using available test scores and  
23 weighting or corrective factors it deems appropriate. The  
24 department shall post the API scores on its Internet Web site on  
25 or before May 1.

26 (D) For purposes of this section, references to schools ranked  
27 in deciles 1 to 3, inclusive, on the 2006 base API shall exclude  
28 schools operated by county offices of education pursuant to Section  
29 56140, as determined by the department.

30 (E) In addition to the requirements above, the county  
31 superintendent, or his or her designee, annually shall verify both  
32 of the following:

33 (i) That pupils who have not passed the high school exit  
34 examination by the end of grade 12 are informed that they are  
35 entitled to receive intensive instruction and services for up to two  
36 consecutive academic years after completion of grade 12 or until  
37 the pupil has passed both parts of the high school exit examination,  
38 whichever comes first, pursuant to paragraphs (4) and (5) of  
39 subdivision (d) of Section 37254.

1 (ii) That pupils who have elected to receive intensive instruction  
2 and services, pursuant to paragraphs (4) and (5) of subdivision (d)  
3 of Section 37254, are being served.

4 (F) (i) Commencing with the 2010–11 fiscal year and every  
5 third year thereafter, the Superintendent shall identify a list of  
6 schools ranked in deciles 1 to 3, inclusive, of the API for which  
7 the county superintendent, or his or her designee, annually shall  
8 submit a report, at a regularly scheduled November board meeting,  
9 to the governing board of each school district under his or her  
10 jurisdiction, the county board of education of his or her county,  
11 and the board of supervisors of his or her county that describes the  
12 state of the schools in the county or of his or her office that are  
13 ranked in deciles 1 to 3, inclusive, of the base API as defined in  
14 clause (ii).

15 (ii) For the 2010–11 fiscal year, the list of schools ranked in  
16 deciles 1 to 3, inclusive, of the base API shall be updated using  
17 the criteria set forth in clauses (i) and (ii) of subparagraph (B),  
18 subparagraph (C), and subparagraph (D), as applied to the 2009  
19 base API and thereafter, shall be updated every third year using  
20 the criteria set forth in clauses (i) and (ii) of subparagraph (B),  
21 subparagraph (C), and subparagraph (D), as applied to the base  
22 API of the year preceding the third year consistent with clause (i).

23 (iii) As a condition for the receipt of funds, the annual report  
24 shall include the determinations for each school made by the county  
25 superintendent, or his or her designee, regarding the status of all  
26 of the circumstances listed in subparagraph (J) and teacher  
27 misassignments and teacher vacancies, and the county  
28 superintendent, or his or her designee, shall use a standardized  
29 template to report the circumstances listed in subparagraph (J) and  
30 teacher misassignments and teacher vacancies, unless the current  
31 annual report being used by the county superintendent, or his or  
32 her designee, already includes those details with the same level of  
33 specificity that is otherwise required by this subdivision.

34 (G) The county superintendent of the Counties of Alpine,  
35 Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City  
36 and County of San Francisco shall contract with another county  
37 office of education or an independent auditor to conduct the  
38 required visits and make all reports required by this paragraph.

39 (H) On a quarterly basis, the county superintendent, or his or  
40 her designee, shall report the results of the visits and reviews

1 conducted that quarter to the governing board of the school district  
2 at a regularly scheduled meeting held in accordance with public  
3 notification requirements. The results of the visits and reviews  
4 shall include the determinations of the county superintendent, or  
5 his or her designee, for each school regarding the status of all of  
6 the circumstances listed in subparagraph (J) and teacher  
7 misassignments and teacher vacancies. If the county  
8 superintendent, or his or her designee, conducts no visits or reviews  
9 in a quarter, the quarterly report shall report that fact.

10 (I) The visits made pursuant to this paragraph shall be conducted  
11 at least annually and shall meet the following criteria:

12 (i) Minimize disruption to the operation of the school.

13 (ii) Be performed by individuals who meet the requirements of  
14 Section 45125.1.

15 (iii) Consist of not less than 25 percent unannounced visits in  
16 each county. During unannounced visits in each county, the county  
17 superintendent shall not demand access to documents or specific  
18 school personnel. Unannounced visits shall only be used to observe  
19 the condition of school repair and maintenance, and the sufficiency  
20 of instructional materials, as defined by Section 60119.

21 (J) The priority objective of the visits made pursuant to this  
22 paragraph shall be to determine the status of all of the following  
23 circumstances:

24 (i) Sufficient textbooks as defined in Section 60119 and as  
25 specified in subdivision (i).

26 (ii) The condition of a facility that poses an emergency or urgent  
27 threat to the health or safety of pupils or staff as defined in district  
28 policy or paragraph (1) of subdivision (c) of Section 17592.72.

29 (iii) The accuracy of data reported on the school accountability  
30 report card with respect to the availability of sufficient textbooks  
31 and instructional materials, as defined by Section 60119, and the  
32 safety, cleanliness, and adequacy of school facilities, including  
33 good repair as required by Sections 17014, 17032.5, 17070.75,  
34 and 17089.

35 (iv) The extent to which pupils who have not passed the high  
36 school exit examination by the end of grade 12 are informed that  
37 they are entitled to receive intensive instruction and services for  
38 up to two consecutive academic years after completion of grade  
39 12 or until the pupil has passed both parts of the high school exit

1 examination, whichever comes first, pursuant to paragraphs (4)  
2 and (5) of subdivision (d) of Section 37254.

3 (v) The extent to which pupils who have elected to receive  
4 intensive instruction and services, pursuant to paragraphs (4) and  
5 (5) of subdivision (d) of Section 37254, are being served.

6 (K) The county superintendent may make the status  
7 determinations described in subparagraph (J) during a single visit  
8 or multiple visits. In determining whether to make a single visit  
9 or multiple visits for this purpose, the county superintendent shall  
10 take into consideration factors such as cost-effectiveness, disruption  
11 to the schoolsite, deadlines, and the availability of qualified  
12 reviewers.

13 (L) If the county superintendent determines that the condition  
14 of a facility poses an emergency or urgent threat to the health or  
15 safety of pupils or staff as defined in district policy or paragraph  
16 (1) of subdivision (c) of Section 17592.72, or is not in good repair,  
17 as specified in subdivision (d) of Section 17002 and required by  
18 Sections 17014, 17032.5, 17070.75, and 17089, the county  
19 superintendent, among other things, may do any of the following:

20 (i) Return to the school to verify repairs.

21 (ii) Prepare a report that specifically identifies and documents  
22 the areas or instances of noncompliance if the district has not  
23 provided evidence of successful repairs within 30 days of the visit  
24 of the county superintendent or, for major projects, has not  
25 provided evidence that the repairs will be conducted in a timely  
26 manner. The report may be provided to the governing board of the  
27 school district. If the report is provided to the school district, it  
28 shall be presented at a regularly scheduled meeting held in  
29 accordance with public notification requirements. The county  
30 superintendent shall post the report on his or her Internet Web site.  
31 The report shall be removed from the Internet Web site when the  
32 county superintendent verifies the repairs have been completed.

33 (d) Distribute all laws, reports, circulars, instructions, and blanks  
34 that he or she may receive for the use of the school officers.

35 (e) Annually, on or before August 15, present a report to the  
36 governing board of the school district and the Superintendent  
37 regarding the fiscal solvency of a school district with a disapproved  
38 budget, qualified interim certification, or a negative interim  
39 certification, or that is determined to be in a position of fiscal  
40 uncertainty pursuant to Section 42127.6.

1 (f) Keep in his or her office the reports of the Superintendent.

2 (g) Keep a record of his or her official acts, and of all the  
3 proceedings of the county board of education, including a record  
4 of the standing, in each study, of all applicants for certificates who  
5 have been examined, which shall be open to the inspection of an  
6 applicant or his or her authorized agent.

7 (h) Enforce the course of study.

8 (i) (1) Enforce the use of state textbooks and instructional  
9 materials and of high school textbooks and instructional materials  
10 regularly adopted by the proper authority in accordance with  
11 Section 51050.

12 (2) For purposes of this subdivision, sufficient textbooks or  
13 instructional materials has the same meaning as in subdivision (c)  
14 of Section 60119.

15 (3) (A) Commencing with the 2005–06 school year, if a school  
16 is ranked in any of deciles 1 to 3, inclusive, of the base API, as  
17 specified in paragraph (2) of subdivision (c), and not currently  
18 under review pursuant to a state or federal intervention program,  
19 the county superintendent specifically shall review that school at  
20 least annually as a priority school. A review conducted for purposes  
21 of this paragraph shall be completed by the fourth week of the  
22 school year. For the 2004–05 fiscal year only, the county  
23 superintendent shall make a diligent effort to conduct a visit to  
24 each school pursuant to this paragraph within 120 days of receipt  
25 of funds for this purpose.

26 (B) In order to facilitate the review of instructional materials  
27 before the fourth week of the school year, the county superintendent  
28 in a county with 200 or more schools that are ranked in any of  
29 deciles 1 to 3, inclusive, of the base API, as specified in paragraph  
30 (2) of subdivision (c), may utilize a combination of visits and  
31 written surveys of teachers for the purpose of determining  
32 sufficiency of textbooks and instructional materials in accordance  
33 with subparagraph (A) of paragraph (1) of subdivision (a) of  
34 Section 60119 and as defined in subdivision (c) of Section 60119.  
35 If a county superintendent elects to conduct written surveys of  
36 teachers, the county superintendent shall visit the schools surveyed  
37 within the same academic year to verify the accuracy of the  
38 information reported on the surveys. If a county superintendent  
39 surveys teachers at a school in which the county superintendent  
40 has found sufficient textbooks and instructional materials for the

1 previous two consecutive years and determines that the school  
2 does not have sufficient textbooks or instructional materials, the  
3 county superintendent shall within 10 business days provide a copy  
4 of the insufficiency report to the school district as set forth in  
5 paragraph (4).

6 (C) For purposes of this paragraph, “written surveys” may  
7 include paper and electronic or online surveys.

8 (4) If the county superintendent determines that a school does  
9 not have sufficient textbooks or instructional materials in  
10 accordance with subparagraph (A) of paragraph (1) of subdivision  
11 (a) of Section 60119 and as defined by subdivision (c) of Section  
12 60119, the county superintendent shall do all of the following:

13 (A) Prepare a report that specifically identifies and documents  
14 the areas or instances of noncompliance.

15 (B) Provide within five business days of the review, a copy of  
16 the report to the school district, as provided in subdivision (c), or,  
17 if applicable, provide a copy of the report to the school district  
18 within 10 business days pursuant to subparagraph (B) of paragraph  
19 (3).

20 (C) Provide the school district with the opportunity to remedy  
21 the deficiency. The county superintendent shall ensure remediation  
22 of the deficiency no later than the second month of the school term.

23 (D) If the deficiency is not remedied as required pursuant to  
24 subparagraph (C), the county superintendent shall request the  
25 department to purchase the textbooks or instructional materials  
26 necessary to comply with the sufficiency requirement of this  
27 subdivision. If the department purchases textbooks or instructional  
28 materials for the school district, the department shall issue a public  
29 statement at the first regularly scheduled meeting of the state board  
30 occurring immediately after the department receives the request  
31 of the county superintendent and that meets the applicable public  
32 notice requirements, indicating that the district superintendent and  
33 the governing board of the school district failed to provide pupils  
34 with sufficient textbooks or instructional materials as required by  
35 this subdivision. Before purchasing the textbooks or instructional  
36 materials, the department shall consult with the district to determine  
37 which textbooks or instructional materials to purchase. All  
38 purchases of textbooks or instructional materials shall comply with  
39 Chapter 3.25 (commencing with Section 60420) of Part 33 of  
40 *Division 4 of Title 2*. The amount of funds necessary for the

1 purchase of the textbooks and materials is a loan to the school  
2 district receiving the textbooks or instructional materials. Unless  
3 the school district repays the amount owed based upon an  
4 agreed-upon repayment schedule with the Superintendent, the  
5 Superintendent shall notify the Controller and the Controller shall  
6 deduct an amount equal to the total amount used to purchase the  
7 textbooks and materials from the next principal apportionment of  
8 the district or from another apportionment of state funds.

9 (j) Preserve carefully all reports of school officers and teachers.

10 (k) Deliver to his or her successor, at the close of his or her  
11 official term, all records, books, documents, and papers belonging  
12 to the office, taking a receipt for them, which shall be filed with  
13 the department.

14 (l) (1) Submit two reports during the fiscal year to the county  
15 board of education in accordance with the following:

16 (A) The first report shall cover the financial and budgetary status  
17 of the county office of education for the period ending October  
18 31. The second report shall cover the period ending January 31.  
19 Both reports shall be reviewed by the county board of education  
20 and approved by the county superintendent no later than 45 days  
21 after the close of the period being reported.

22 (B) As part of each report, the county superintendent shall certify  
23 in writing whether or not the county office of education is able to  
24 meet its financial obligations for the remainder of the fiscal year  
25 and, based on current forecasts, ~~for two the subsequent fiscal years~~  
26 *year*. The certifications shall be classified as positive, qualified,  
27 or negative, pursuant to standards prescribed by the Superintendent,  
28 for the purposes of determining subsequent state agency actions  
29 pursuant to Section 1240.1. For purposes of this subdivision, a  
30 negative certification shall be assigned to a county office of  
31 education that, based upon current projections, will not meet its  
32 financial obligations for the remainder of the fiscal year ~~or for the~~  
33 ~~subsequent fiscal year~~. A qualified certification shall be assigned  
34 to a county office of education that may not meet its financial  
35 obligations for the current fiscal year ~~or two the subsequent fiscal~~  
36 ~~years year~~. A positive certification shall be assigned to a county  
37 office of education that will meet its financial obligations for the  
38 current fiscal year and *the subsequent two fiscal years year*. In  
39 accordance with those standards, the Superintendent may reclassify  
40 a certification. If a county office of education receives a negative

1 certification, the Superintendent, or his or her designee, may  
2 exercise the authority set forth in subdivision (c) of Section 1630.  
3 Copies of each certification, and of the report containing that  
4 certification, shall be sent to the Superintendent at the time the  
5 certification is submitted to the county board of education. Copies  
6 of each qualified or negative certification and the report containing  
7 that certification shall be sent to the Controller at the time the  
8 certification is submitted to the county board of education.

9 (2) All reports and certifications required under this subdivision  
10 shall be in a format or on forms prescribed by the Superintendent,  
11 and shall be based on standards and criteria for fiscal stability  
12 adopted by the state board pursuant to Section 33127. The reports  
13 and supporting data shall be made available by the county  
14 superintendent to an interested party upon request.

15 (3) This subdivision does not preclude the submission of  
16 additional budgetary or financial reports by the county  
17 superintendent to the county board of education or to the  
18 Superintendent.

19 (4) The county superintendent is not responsible for the fiscal  
20 oversight of the community colleges in the county, however, he  
21 or she may perform financial services on behalf of those  
22 community colleges.

23 (m) If requested, act as agent for the purchase of supplies for  
24 the city and high school districts of his or her county.

25 (n) For purposes of Section 44421.5, report to the Commission  
26 on Teacher Credentialing the identity of a certificated person who  
27 knowingly and willingly reports false fiscal expenditure data  
28 relative to the conduct of an educational program. This requirement  
29 applies only if, in the course of his or her normal duties, the county  
30 superintendent discovers information that gives him or her  
31 reasonable cause to believe that false fiscal expenditure data  
32 relative to the conduct of an educational program has been reported.

33 SEC. 2. Section 1630 of the Education Code is amended to  
34 read:

35 1630. (a) The Superintendent shall review and consider studies,  
36 reports, evaluations, or audits of the county office of education  
37 that contain evidence that the county office of education is  
38 demonstrating fiscal distress according to the standards and criteria  
39 developed pursuant to Section 33127 or that contain a finding by  
40 an external reviewer that more than 3 of the 15 most common

1 predictors of school agencies needing intervention, as determined  
2 by the County Office Fiscal Crisis and Management Assistance  
3 Team, are present. If those findings are made, the Superintendent  
4 shall investigate the financial condition of the county office of  
5 education and determine if the county office of education may be  
6 unable to meet its financial obligations for the current or ~~two~~ *the*  
7 subsequent fiscal ~~years~~ *year*, or should receive a qualified or  
8 negative interim financial certification pursuant to Section 1240.

9 (b) If at any time during the fiscal year the Superintendent  
10 determines that the county office of education may be unable to  
11 meet its financial obligations for the current or ~~two~~ *the* subsequent  
12 fiscal ~~years~~ *year* or if the county office has a qualified certification  
13 pursuant to Section 1240, he or she shall notify the county board  
14 of education and the county superintendent in writing of that  
15 determination and the basis for the determination. The notification  
16 shall include the assumptions used in making the determination  
17 and shall be available to the public. The Superintendent shall do  
18 the following, as necessary, to ensure that the county office meets  
19 its financial obligations:

20 (1) Assign a fiscal expert, paid for by the Superintendent, to  
21 advise the county office on its financial problems.

22 (2) Conduct a study of the financial and budgetary conditions  
23 of the county office. If, in the course of this review, the  
24 Superintendent determines that his or her office requires analytical  
25 assistance or expertise that is not available through the county  
26 office, he or she may employ, at county office expense, on a  
27 short-term basis, staff, including certified public accountants, to  
28 provide the assistance and expertise.

29 (3) Direct the county office to submit a financial projection of  
30 all fund and cash balances of the county office as of June 30 of  
31 the current year and *the* subsequent fiscal ~~years~~ *year* as he or she  
32 requires.

33 (4) Require the county office to encumber all contracts and other  
34 obligations, to prepare appropriate cashflow analyses and monthly  
35 or quarterly budget revisions, and to appropriately record all  
36 receivables and payables.

37 (5) Direct the county office to submit a proposal for addressing  
38 the fiscal conditions that resulted in the determination that the  
39 county office may not be able to meet its financial obligations.

1 (6) Withhold compensation of the county board of education  
2 and the county superintendent for failure to provide requested  
3 financial information.

4 (c) If, after taking the actions identified in subdivision (a), the  
5 Superintendent determines that a county office will be unable to  
6 meet its financial obligations for the current or subsequent fiscal  
7 year, he or she shall notify the county board of education and the  
8 county superintendent in writing of that determination and the  
9 basis for that determination. The notification shall include the  
10 assumptions used in making the determination and shall be  
11 available to the public.

12 (d) If the Superintendent ~~of Public Instruction~~ makes that  
13 determination, or if the county office has a negative certification  
14 pursuant to Section 1240, the Superintendent, shall, as necessary  
15 to enable the county office to meet its financial obligations, do one  
16 or more of the following:

17 (1) Develop and impose, in consultation with the county board  
18 of education and the county superintendent, a budget that will  
19 enable the county to meet its financial obligations.

20 (2) Stay or rescind any action that is determined to be  
21 inconsistent with the ability of the county office to meet its  
22 obligations for the current or subsequent fiscal year and may, as  
23 necessary, appoint a fiscal adviser to perform any or all of the  
24 duties prescribed by this paragraph on his or her behalf. This  
25 includes any actions up to the point that the subsequent year's  
26 budget is approved by the Superintendent. The Superintendent  
27 shall inform the county board of education in writing of his or her  
28 justification for any exercise of authority under this paragraph.

29 (3) Assist in developing, in consultation with the county board  
30 of education and the county superintendent, a financial plan that  
31 will enable the county office to meet its future obligations.

32 (4) Assist in developing, in consultation with the county board  
33 of education and the county superintendent, a budget for the  
34 subsequent fiscal year. If necessary, the Superintendent shall  
35 continue to work with the county board of education and the county  
36 superintendent until the budget for the subsequent year is adopted.

37 (e) Any actions taken by the Superintendent pursuant to  
38 paragraph (1) or (2) of subdivision (d) shall be accompanied by a  
39 notification that includes the actions to be taken, the reasons for

1 the actions, and the assumptions used to support the necessity for  
2 those actions. That notification shall be available to the public.

3 (f) This section does not authorize the Superintendent to  
4 abrogate any provision of a collective bargaining agreement that  
5 was entered into by a county office prior to the date upon which  
6 the Superintendent assumed authority pursuant to subdivision (d).

7 (g) The county office shall pay reasonable fees charged by the  
8 Superintendent for any administrative expenses incurred pursuant  
9 to subdivision (d) or costs associated with improving the office's  
10 financial management practices.

11 (h) Notwithstanding any other provision of law, a county  
12 treasurer shall not honor any warrant when the Superintendent, as  
13 appropriate, has disapproved that warrant, or has disapproved the  
14 order on county office funds for which a warrant was prepared.

15 (i) For all purposes of errors and liability insurance policies, a  
16 fiscal expert appointed pursuant to this section shall be deemed to  
17 be an employee of the county office of education. The  
18 Superintendent may require that the fiscal adviser be placed on  
19 the county office of education payroll for the purposes of  
20 remuneration, benefits, and payroll deductions.

21 (j) If staff persons are hired pursuant to paragraph (2) of  
22 subdivision (a), the Superintendent may certify to the Controller  
23 an amount to be transferred to the State Department of Education,  
24 from the funds that otherwise would be apportioned to the county  
25 office of education pursuant to Section 2558, for the purpose of  
26 paying all costs incurred by that staff in performing their respective  
27 services. The Controller, upon receipt of that certification, shall  
28 transfer that amount.

29 (k) To facilitate the appointment of a county office fiscal officer  
30 and the employment of additional staff pursuant to paragraphs (1)  
31 and (2), respectively, of subdivision (a), for the purposes of those  
32 paragraphs, the Superintendent of Public Instruction is exempt  
33 from the requirements of Article 6 (commencing with Section 999)  
34 of Chapter 6 of Division 4 of the Military and Veterans Code and  
35 Part 2 (commencing with Section 10100) of *Division 2 of the Public*  
36 *Contracts Code*.

37 SEC. 3. Section 42127.6 of the Education Code is amended to  
38 read:

39 42127.6. (a) (1) A school district shall provide the county  
40 superintendent of schools with a copy of a study, report, evaluation,

1 or audit that was commissioned by the district, the county  
2 superintendent, the Superintendent of Public Instruction, and state  
3 control agencies and that contains evidence that the school district  
4 is showing fiscal distress under the standards and criteria adopted  
5 in Section 33127, or a report on the school district by the County  
6 Office Fiscal Crisis and Management Assistance Team or any  
7 regional team created pursuant to subdivision (i) of Section  
8 42127.8. The county superintendent shall review and consider  
9 studies, reports, evaluations, or audits of the school district that  
10 contain evidence that the school district is demonstrating fiscal  
11 distress under the standards and criteria adopted in Section 33127  
12 or that contain a finding by an external reviewer that more than  
13 three of the 15 most common predictors of a school district needing  
14 intervention, as determined by the County Office Fiscal Crisis and  
15 Management Assistance Team, are present. If these findings are  
16 made, the county superintendent shall investigate the financial  
17 condition of the school district and determine if the school district  
18 may be unable to meet its financial obligations for the current or  
19 ~~two~~ *one* subsequent fiscal ~~years~~ *year*, or should receive a qualified  
20 or negative interim financial certification pursuant to Section  
21 42131. ~~If~~

22 (2) *If*, at any time during the fiscal year, the county  
23 superintendent of schools determines that a school district may be  
24 unable to meet its financial obligations for the current or ~~two~~ *one*  
25 subsequent fiscal ~~years~~ *year*, or if a school district has a qualified  
26 or negative certification pursuant to Section 42131, he or she shall  
27 notify the governing board of the school district and the  
28 Superintendent of Public Instruction in writing of that  
29 determination and the basis for the determination. The notification  
30 shall include the assumptions used in making the determination  
31 and shall be available to the public. The county superintendent of  
32 schools shall report to the Superintendent of Public Instruction on  
33 the financial condition of the school district and his or her proposed  
34 remedial actions, and shall do at least one of the following and all  
35 actions that are necessary to ensure that the district meets its  
36 financial obligations:

37 (A) Assign a fiscal expert, paid for by the county superintendent,  
38 to advise the district on its financial problems.

39 (B) Conduct a study of the financial and budgetary conditions  
40 of the district that includes, but is not limited to, a review of

1 internal controls. If, in the course of this review, the county  
2 superintendent determines that his or her office requires analytical  
3 assistance or expertise that is not available through the district, he  
4 or she may employ, on a short-term basis, with the approval of the  
5 Superintendent of Public Instruction, staff, including certified  
6 public accountants, to provide the assistance and expertise. The  
7 school district shall pay 75 percent and the county office of  
8 education shall pay 25 percent of these staff costs.

9 (C) Direct the school district to submit a financial projection of  
10 all fund and cash balances of the district as of June 30 of the current  
11 year and subsequent fiscal years as he or she requires.

12 (D) Require the district to encumber all contracts and other  
13 obligations, to prepare appropriate cashflow analyses and monthly  
14 or quarterly budget revisions, and to appropriately record all  
15 receivables and payables.

16 (E) Direct the district to submit a proposal for addressing the  
17 fiscal conditions that resulted in the determination that the district  
18 may not be able to meet its financial obligations.

19 (F) Withhold compensation of the members of the governing  
20 board and the district superintendent for failure to provide  
21 requested financial information. This action may be appealed to  
22 the Superintendent of Public Instruction pursuant to subdivision  
23 (b).

24 (G) Assign the Fiscal Crisis and Management Assistance Team  
25 to review teacher hiring practices, teacher retention rate, percentage  
26 of provision of highly qualified teachers, and the extent of teacher  
27 misassignment in the school district and provide the district with  
28 recommendations to streamline and improve the teacher hiring  
29 process, teacher retention rate, extent of teacher misassignment,  
30 and provision of highly qualified teachers. If a review team is  
31 assigned to a school district, the district shall follow the  
32 recommendations of the team, unless the district shows good cause  
33 for failure to do so. The Fiscal Crisis and Management Assistance  
34 Team may not recommend an action that would abrogate a contract  
35 that governs employment.

36 ~~(2)~~

37 (3) Any contract entered into by a county superintendent of  
38 schools for the purposes of this subdivision is subject to the  
39 approval of the Superintendent of Public Instruction.

40 ~~(3)~~

1 (4) An employee of a school district who provides information  
2 regarding improper governmental activity, as defined in Section  
3 44112, is entitled to the protection provided pursuant to Article 5  
4 (commencing with Section 44110) of Chapter 1 of Part 25.

5 (b) Within five days of the county superintendent making the  
6 determination specified in subdivision (a), a school district may  
7 appeal the basis of the determination and any of the proposed  
8 actions that the county superintendent has indicated that he or she  
9 will take to further examine the financial condition of the district.  
10 The Superintendent of Public Instruction shall sustain or deny any  
11 or all parts of the appeal within 10 days.

12 (c) If, after taking the actions identified in subdivision (a), the  
13 county superintendent determines that a district will be unable to  
14 meet its financial obligations for the current or subsequent fiscal  
15 year, he or she shall notify the school district governing board and  
16 the Superintendent of Public Instruction in writing of that  
17 determination and the basis for that determination. The notification  
18 shall include the assumptions used in making the determination  
19 and shall be provided to the superintendent of the school district  
20 and parent and teacher organization of the district.

21 (d) Within five days of the county superintendent making the  
22 determination specified in subdivision (c), a school district may  
23 appeal that determination to the Superintendent of Public  
24 Instruction. The Superintendent shall sustain or deny the appeal  
25 within 10 days. If the governing board of the school district appeals  
26 the determination, the county superintendent of schools may stay  
27 any action of the governing board that he or she determines is  
28 inconsistent with the ability of the district to meet its financial  
29 obligations for the current or subsequent fiscal year until resolution  
30 of the appeal by the Superintendent of Public Instruction.

31 (e) If the appeal described in subdivision (d) is denied or not  
32 filed, or if the district has a negative certification pursuant to  
33 Section 42131, the county superintendent, in consultation with the  
34 Superintendent of Public Instruction, shall take at least one of the  
35 actions described in paragraphs (1) to (5), inclusive, and all actions  
36 that are necessary to ensure that the district meets its financial  
37 obligations and shall make a report to the Superintendent about  
38 the financial condition of the district and remedial actions proposed  
39 by the county superintendent.

1 (1) Develop and impose, in consultation with the Superintendent  
2 of ~~Public Instruction~~ and the school district governing board, a  
3 budget revision that will enable the district to meet its financial  
4 obligations in the current fiscal year.

5 (2) Stay or rescind any action that is determined to be  
6 inconsistent with the ability of the school district to meet its  
7 obligations for the current or subsequent fiscal year. This includes  
8 any actions up to the point that the subsequent year's budget is  
9 approved by the county superintendent of schools. The county  
10 superintendent of schools shall inform the school district governing  
11 board in writing of his or her justification for any exercise of  
12 authority under this paragraph.

13 (3) Assist in developing, in consultation with the governing  
14 board of the school district, a financial plan that will enable the  
15 district to meet its future obligations.

16 (4) Assist in developing, in consultation with the governing  
17 board of the school district, a budget for the subsequent fiscal year.  
18 If necessary, the county superintendent of schools shall continue  
19 to work with the governing board of the school district until the  
20 budget for the subsequent year is adopted.

21 (5) As necessary, appoint a fiscal adviser to perform any or all  
22 of the duties prescribed by this section on his or her behalf.

23 (f) Any action taken by the county superintendent of schools  
24 pursuant to paragraph (1) or (2) of subdivision (e) shall be  
25 accompanied by a notification that shall include the actions to be  
26 taken, the reasons for the actions, and the assumptions used to  
27 support the necessity for these actions.

28 (g) This section does not authorize the county superintendent  
29 to abrogate any provision of a collective bargaining agreement  
30 that was entered into by a school district prior to the date upon  
31 which the county superintendent of schools assumed authority  
32 pursuant to subdivision (e).

33 (h) The school district shall pay 75 percent and the county office  
34 of education shall pay 25 percent of the administrative expenses  
35 incurred pursuant to subdivision (e) or costs associated with  
36 improving the district's financial management practices. The  
37 Superintendent of ~~Public Instruction~~ shall develop and distribute  
38 to affected school districts and county offices of education advisory  
39 guidelines regarding the appropriate amount of administrative  
40 expenses charged pursuant to this subdivision.

1 (i) Notwithstanding Section 42647 or 42650 or any other law,  
2 a county treasurer shall not honor any warrant if, pursuant to  
3 Sections 42127 to 42127.5, inclusive, or pursuant to this section,  
4 the county superintendent or the Superintendent of Public  
5 Instruction, as appropriate, has disapproved that warrant or the  
6 order on school district funds for which a warrant was prepared.

7 (j) Effective upon the certification of the election results for a  
8 newly organized school district pursuant to Section 35763, the  
9 county superintendent of schools may exercise any of the powers  
10 and duties of this section regarding the reorganized school district  
11 and the other affected school districts until the reorganized school  
12 district becomes effective for all purposes in accordance with  
13 Article 4 (commencing with Section 35530) of Chapter 3 of Part  
14 21.

15 (k) The Superintendent of Public Instruction shall monitor the  
16 efforts of a county office of education in exercising its authority  
17 under this section and may exercise any of that authority if he or  
18 she finds that the actions of the county superintendent of schools  
19 are not effective in resolving the financial problems of the school  
20 district. Upon a decision to exercise the powers of the county  
21 superintendent of schools, the county superintendent of schools is  
22 relieved of those powers assumed by the Superintendent. In  
23 addition to the actions taken by the county superintendent, the  
24 Superintendent of Public Instruction shall take further actions to  
25 ensure the long-term fiscal stability of the district. The county  
26 office of education shall reimburse the Superintendent of Public  
27 Instruction for all of his or her costs in exercising his or her  
28 authority under this subdivision. The Superintendent of Public  
29 Instruction shall promptly notify the county superintendent of  
30 schools, the county board of education, the superintendent of the  
31 school district, the governing board of the school district, the  
32 appropriate policy and fiscal committees of each house of the  
33 Legislature, and the Department of Finance of his or her decision  
34 to exercise the authority of the county superintendent of schools.

35 SEC. 4. Section 42131 of the Education Code is amended to  
36 read:

37 42131. (a) (1) Pursuant to the reports required by Section  
38 42130, the governing board of each school district shall certify, in  
39 writing, within 45 days after the close of the period being reported,  
40 whether the school district is able to meet its financial obligations

1 for the remainder of the fiscal year and, based on current forecasts,  
2 for the subsequent fiscal year. These certifications shall be based  
3 upon the board's assessment, on the basis of standards and criteria  
4 for fiscal stability adopted by the State Board of Education pursuant  
5 to Section 33127, of the district budget, as revised to reflect current  
6 information regarding the adopted State Budget, district property  
7 tax revenues pursuant to ~~Sections 95 to 100, inclusive, Chapter 6~~  
8 *(commencing with Section 95) of Part 0.5 of Division 1* of the  
9 Revenue and Taxation Code, and ending balances for the preceding  
10 fiscal year as reported pursuant to Section 42100. The certifications  
11 shall be classified as positive, qualified, or negative, as prescribed  
12 by the Superintendent of Public Instruction for the purposes of  
13 determining subsequent actions by the Superintendent of Public  
14 Instruction, the Controller, or the county superintendent of schools,  
15 pursuant to subdivisions (b) and (c). These certifications shall be  
16 based upon the financial and budgetary reports required by Section  
17 42130 but may include additional financial information known by  
18 the governing board to exist at the time of each certification. For  
19 purposes of this subdivision, a negative certification shall be  
20 assigned to any school district that, based upon current projections,  
21 will be unable to meet its financial obligations for the remainder  
22 of the fiscal year ~~or the subsequent fiscal year~~. A qualified  
23 certification shall be assigned to any school district that, based  
24 upon current projections, may not meet its financial obligations  
25 for the current fiscal year ~~or two the subsequent fiscal years year~~.  
26 A positive certification shall be assigned to any school district that,  
27 based upon current projections, will meet its financial obligations  
28 for the current fiscal year and *the subsequent two fiscal years year*.  
29 (2) (A) A copy of each certification and a copy of the report  
30 submitted to the governing board pursuant to Section 42130 shall  
31 be filed with the county superintendent of schools. If a county  
32 office of education receives a positive certification when it  
33 determines a negative or qualified certification should have been  
34 filed, the county superintendent of schools shall change the  
35 certification to negative or qualified, as appropriate, and, no later  
36 than 75 days after the close of the period being reported, shall  
37 provide notice of that action to the governing board of the school  
38 district and to the Superintendent ~~of Public Instruction~~. No later  
39 than five days after a school district receives notice from the county  
40 superintendent of schools of a change in the district's certification

1 to negative or qualified, the governing board of the district may  
2 submit an appeal to the Superintendent of ~~Public Instruction~~  
3 regarding the validity of that change, in accordance with the criteria  
4 applied to those designations pursuant to this subdivision. No later  
5 than 10 days after receiving that appeal, the Superintendent of  
6 ~~Public Instruction~~ shall determine the certification to be assigned  
7 to the district, and shall notify the school district governing board  
8 and the county superintendent of schools of that determination.

9 **Copies**

10 (B) *Copies* of any certification in which the governing board is  
11 unable to certify unqualifiedly that these financial obligations will  
12 be met and a copy of the report submitted to the governing board  
13 pursuant to Section 42130 shall be sent by the county office of  
14 education to the Controller and the Superintendent of ~~Public~~  
15 ~~Instruction~~ at the time of the certification, together with a  
16 completed transmittal form provided by the Superintendent of  
17 ~~Public Instruction~~. Within 75 days after the close of the reporting  
18 period on all school district certifications that are classified as  
19 qualified or negative pursuant to this section, the appropriate county  
20 superintendent of schools shall submit to the Superintendent of  
21 ~~Public Instruction~~ and the Controller his or her comments on those  
22 certifications and report any action proposed or taken pursuant to  
23 subdivision (b).

24 (3) All reports and certifications required under this subdivision  
25 shall be in a format or on forms prescribed by the Superintendent  
26 of ~~Public Instruction~~, and shall be based on standards and criteria  
27 for fiscal stability adopted by the State Board of Education pursuant  
28 to Section 33127.

29 (4) This subdivision does not preclude the submission of  
30 additional budgetary or financial reports by the county  
31 superintendent of schools to the district governing board, or to the  
32 Superintendent of ~~Public Instruction~~.

33 (b) As to any school district having a negative or qualified  
34 certification, the county superintendent of schools shall exercise  
35 his or her authority, as necessary, pursuant to Section 42127.6.

36 (c) Within 75 days after the close of each reporting period, each  
37 county superintendent of schools shall report to the Controller and  
38 the Superintendent of ~~Public Instruction~~ as to whether the  
39 governing board of each of the school districts under his or her  
40 jurisdiction has submitted the certification required by subdivision

1 (a). That report shall account for all districts under the jurisdiction  
2 of the county office of education and indicate the type of  
3 certification filed by each district.

4 (d) The Controller's office may conduct an audit or review of  
5 the fiscal condition of any district having a negative or qualified  
6 certification.

7 (e) The governing board of each school district filing a qualified  
8 or negative certification for the second report required under  
9 Section 42130, or classified as qualified or negative by the county  
10 superintendent of schools, shall provide to the county  
11 superintendent of schools, the Controller, and the Superintendent  
12 ~~of Public Instruction~~ no later than June 1, financial statement  
13 projections of the district's fund and cash balances through June  
14 30 for the period ending April 30. The governing boards of all  
15 other school districts are encouraged to develop a similar financial  
16 statement for use in developing the beginning fund balances of the  
17 district for the ensuing fiscal year.

18 (f) Any school district for which the county board of education  
19 serves as the governing board is not subject to subdivisions (a) to  
20 ~~(f)~~ (e), inclusive, but is governed instead by the interim report,  
21 monitoring, and review procedures set forth in subdivision (l) of  
22 Section 1240 and in Article 2 (commencing with Section 1620)  
23 of Chapter 5 of Part 2 of *Division 1 of Title 1*.